

R E M A R K S

Claims 7 to 28 as set forth in Appendix I of this paper are currently pending in this case. Claims 7, 11 to 14, 25 and 26 have been amended as indicated.

Accordingly, applicants have corrected some minor typographical errors in Claims 11 to 14 and 26. Additionally, applicants have deleted the expression "excluding carbon catalysts" in favor of the wording --with the proviso that the process is not an oxidative cleavage of N-phosphonomethyliminodiacetic acid with simultaneous oxidation of formaldehyde formed as by-product in the presence of a catalyst system which comprises activated carbon together with a microporous acid-resistant aluminosilicate having a ratio of Si to Al of at least 2 as support and a noble metal as active component-- (emphasis added). The part of the proviso which is emphasized in the foregoing is essentially a reproduction of the wording used on page 1, indicated lines 25 to 30, of the application¹⁾. The fact that the process disclosed and claimed by applicants does not include the oxidative cleavage which is disclosed in the prior art, namely by **Felthouse** in **US 4,582,650**, is supported by applicants' statements on page 2, indicated line 37, to page 3, indicated line 7, of the application, which provides

It is an object of the present invention to provide a novel process for preparing glyphosate by oxidative treatment of PMIDE, which process gives the target compound glyphosate in high yield.

We have found that this object is achieved by a process for preparing N-phosphonomethylglycine or a salt thereof by ...

(emphasis added), in conjunction with applicants' discussion of the known process on page 1, indicated lines 25 to 33, of the application. The proviso introduced into Claims 7 and 25, therefore, does not constitute new matter within the provisions of Sections 112, ¶1, and 132. In light of the referenced sections of applicants' disclosure, the proviso introduced into Claims 7 and 25 is also fully in compliance with the written description requirement of Section 112, ¶1. It is therefore respectfully requested that the rejection of Claims 27 to 28 under Section 112, ¶1, be withdrawn. Favorable action is solicited.

1) In the corresponding paragraph, applicants specifically address the disclosure of **Felthouse** in **US 4,582,650**.

The Examiner further rejected Claims 7 to 24 under 35 U.S.C. §112, ¶2. In this context, the Examiner criticized the expression "excluding carbon catalysts" which has been deleted from the claims in favor of the proviso discussed in the foregoing. The proviso clearly delineates which type of process, and correspondingly, which type of carbon catalysts, are outside of the metes and bounds of applicants' claims. In light of the foregoing and the attached it is therefore respectfully requested that the rejection under Section 112, ¶2, be withdrawn. Favorable action is solicited.

REQUEST FOR EXTENSION OF TIME:

It is respectfully requested that a three month extension of time be granted in this case. A check for the \$950.00 fee is attached.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 11.0345. Please credit any excess fees to such deposit account.

Respectfully submitted,

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Encl.: THE LISTING OF CLAIMS (Appendix I)

HBK/BAS